



# Town Council Agenda Report

**SUBJECT:** Ordinance

**TITLE OF AGENDA ITEM:** An ordinance of the Town of Davie, Florida, amending Article II of Chapter 26 of the Code of Davie entitled "Tree Preservation"; by providing for more stringent tree specifications, shorter expiration periods for tree removal permits, new fee schedule for payment into the tree preservation fund in lieu of tree replacement, and additional measures to ensure tree protection and survivability during the construction process, amending Article III entitled "Tree Abuse"; providing for more stringent tree and palm pruning standards and the addition of a new tree replacement fee and evaluation schedule; providing severability and an effective date.

**REPORT IN BRIEF:** Ordinance amending Article II entitled "Tree Preservation" by providing for stronger tree protection to include a reduction in caliper inch size of "native trees" to a minimum of 18", ensuring proposed development will comply with tree protection and or replacement codes by creating a tree evaluation list and coordinating fee schedule, and providing additional measures to ensure survivability of existing trees damaged from construction such as, corrective pruning, root pruning, fertilization, and soil enhancements,

Ordinance amending Article III entitled "Tree Abuse" by providing required pruning standards for trees and palms as defined by the American National Standards Institute (ANSI A-300), removing the Ficus tree species from the Prohibition of Tree Abuse Exceptions list, and providing a penalty clause in the event a person removes a tree(s) from a site without first obtaining a tree removal permit. This will include equal replacement size or monetary fines paid into the Tree Preservation Fund.

**DISCUSSION:** This ordinance has been amended for the purpose of creating a Tree Protection Code that will meet the updated criteria of Broward County's Department of Natural Resource Protection.

**CONCURRENCES:** not applicable

**FISCAL IMPACT:** not applicable

**RECOMMENDATION(S):** Motion to approve the ordinance to comply with the tree preservation standards set by the Department of Natural Resource Protection of Broward County.

**Attachment(s):** Ordinance

## **ORDINANCE**

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING ARTICLE II OF CHAPTER 26 OF THE CODE OF DAVIE ENTITLED "TREE PRESERVATION" BY PROVIDING FOR MORE STRINGENT TREE SPECIFICATIONS, SHORTER EXPIRATION PERIODS FOR TREE REMOVAL PERMITS, NEW FEE SCHEDULE FOR PAYMENTS INTO THE TREE PRESERVATION FUND IN LIEU OF TREE REPLACEMENT, AND ADDITIONAL MEASURES TO INSURE TREE PROTECTION AND SURVIVABILITY DURING THE CONSTRUCTION PROCESS, AMENDING ARTICLE III ENTITLED "TREE ABUSE"; PROVIDING FOR MORE STRINGENT TREE AND PALM PRUNING STANDARDS AND THE ADDITION OF A NEW TREE REPLACEMENT FEE AND EVALUATION SCHEDULE; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Section 27-340 (C) of the Broward County Code of Ordinances requires that all municipalities adopt a Tree Preservation/Tree Abuse Ordinance at least as stringent as the Counties; and

WHEREAS, the Town of Davie, recognizes that the town's existing "Tree Preservation " ordinance does not meet this requirement.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. That Article II and Article III of Chapter 26 entitled "Tree Preservation" and "Tree Abuse" is hereby repealed in its entirety.

SECTION 2. That the Code of Ordinances of the Town of Davie is hereby amended by adopting a new Article II of Chapter 26 entitled "Tree Preservation" and a new Article III of Chapter 26 entitled "Tree Abuse" to read as follows:

### **ARTICLE I. IN GENERAL**

**Secs. 26-1--26-15. Reserved.**

### **ARTICLE II. TREE PRESERVATION\***

**Sec. 26-16. Title.**

This article shall be known and may be cited as the "Town Tree Preservation/Tree Abuse Ordinance."

(Ord. No. 96-045, § 2, 11-20-96)

**Sec. 26-17. Purpose.**

The purpose of this article is to establish rules and regulations governing the protection of trees and vegetation cover within the town, promoting the proliferation of trees and other vegetation in the town in recognition of their importance and meaningful

contribution to a healthful, beautiful and aesthetically pleasing community.  
(Ord. No. 96-045, § 2, 11-20-96)

#### **Sec. 26-18. Applicability.**

The term and provisions of this article shall apply to all real property located within the town limits, except as provided herein.  
(Ord. No. 96-045, § 2, 11-20-96)

#### **Sec. 26-19. Definitions.**

For the purpose of this article, the following terms shall have those meanings set forth herein:

*Breast height* means a height of four and one-half (4 1/2) feet above the natural grade.

*Canopy coverage* means the areal extent of ground within the drip line of the tree.

*Diameter breast height (DBH)* means the diameter of the trunk of a tree measured at breast height. The DBH of trees with multiple trunks shall be the sum of the individual trunk diameters at breast height. Trees with less than four and one-half (4 1/2) feet of clear trunk shall be measured as the diameter of the largest vertical branch or leader at breast height.

*Drip line* means the peripheral limits of the horizontal crown of a tree spread vertically to the ground; provided, however, that the same shall not be less than a circle with a five-foot radius measured from the center of the tree.

*Effectively destroy* means to cause, suffer, allow or permit any act which will abuse [cause] a tree to die or go into a period of unnatural decline within a period of one (1) year from the date of the act. Acts which may effectively destroy a tree include, but are not limited to, damage inflicted upon the root system by heavy machinery, excessive trimming, changing the natural grade above the root system or around the trunk, damage intentionally inflicted on the tree permitting infection or pest infestation, application of herbicides or other chemical agents, or intentional fire damage to the tree permitting infection or pest infestation, the infliction of a trunk wound that is fifty (50) percent or greater of the circumference of the trunk, or the removal of sufficient canopy to cause the unnatural decline of the tree.

*Equivalent replacement* means a tree(s) whose condition, size and location is determined by the town administrator, or designee, to be the equivalent of the tree, or trees, which it replaces. In some instances, the equivalent replacement may be more than one (1) tree.

*Equivalent value* means an amount of money which reflects the cost of replacing a dicot, monocot or conifer tree. This amount shall be determined based on the market value of an equivalent replacement plus installation.

*Hat racking* means to flat-cut the top of a tree, severing the leader or leaders; or pruning a tree by stubbing off mature wood larger than three (3) inches in diameter; or reducing the total circumference or canopy spread not in conformance with the "American National Standards Institute A-300" standards, a copy of which is on file with the development services department. Notwithstanding this definition, "hat racking" will not include such necessary tree cutting by authorized utilities providers around power lines or

utility lines to prevent disruption of utility service or for safety reasons.

*Land clearing* means the clearing of vegetation and soils for the purpose of land development activities. This includes, but is not limited to, construction for buildings, rights-of-way, utility easements or access, drainage ways, parking lots and other structures, rock mining, and agricultural activities that involve the removal of trees as defined by this article.

*Off-site* for tree relocation and tree replacement, means any location in excess of one (1) mile from the tree's original location.

*On-site*, for tree relocation and tree replacement, means any location one (1) mile or less from the tree's original location.

*Protective barrier* means fences or like structures at least four (4) feet in height that are conspicuously colored and prevent or obstruct passage.

*Removal* means to cut down, dig up, destroy, effectively destroy, or the unlicensed relocation of any tree.

*Replacement tree* means any tree used to replace a removed tree. Replacement trees shall have a minimum caliper of three (3) inches, and a minimum height of sixteen (16) feet at the time of planting.

*Specimen tree* means any native tree which has a DBH of eighteen (18) inches or greater for conifers, ~~and twenty-four (24) inches or greater for~~ native hardwoods and palms, which is well-shaped and in good health as verified by the development services department; non-native trees which have a DBH of eighteen (18) inches for conifers ~~and twenty-four (24) inches for~~, hardwoods and palms shall also be considered specimen trees; provided, however, that the following trees are not specimen trees:

- (1) Non-native fruit trees that are cultivated or grown for the specific purpose of producing edible fruit, including, but not limited to mangoes, avocados, or species of citrus.
- (2) Species of the genus *Ficus* except *F. aurea* (Strangler Fig), *F. laevigata* (Short Leaf Fig), *F. rubiginosa* (Rusty Fig or Rusty Leaf Fig), and *F. jacquinifolia*.
- (3) *Paurotis* palm (*Acoelorrhaphe wrightii*), and the Phoenix palm (*Phoenix reclinata*), which are less than fifteen (15) feet in height, and all other multi-trunk palms.
- (4) Trees that are in poor condition or form as determined by the Town of Davie

*Structure* means anything built or constructed on, below or above the land.

*Substantial deviation* means any proposed modification or modifications to a development, a permit, or a permit application which, either individually or cumulatively with other changes, creates a reasonable likelihood of additional environmental impact, as covered by the scope of this article, or any change or proposed change that may result in any impacts on trees not previously reviewed by the development services department as covered by the scope of this article.

*Tree* means any living, self-supporting, dicotyledonous or monocotyledonous woody perennial plant which has a DBH of no less than three (3) inches and normally grows to an overall height of no less than ten (10) feet in Southeast Florida. For the purpose of this article

the following are not considered trees:

- (1) *Schinus terebinthifolius* (Brazilian pepper tree/Florida holly).
- (2) *Metopium toxiferum* (Poison Wood).
- (3) *Melaleuca quinquenervia* (Cajeput tree/Melaleuca).
- (4) *Casuarina* spp. (Australian pine, all species).
- (5) Commercial citrus tree species.
- (6) *Bischofia javanica* (Bischofia, Bishopwood).
- (7) *Acacia auriculaeformis* (Earleaf Acacia).
- (8) *Araucaria excelsa* (Norfolk Island Pine).
- (9) *Brassia actinophylla* (Schefflera).
- (10) ~~All Category I invasive exotic plants.~~ *Cupaniopsis anacardiopsis* (Carrotwood).

Tree canopy means the upper portion of the tree consisting of limbs, branches, and leaves.

Tree survey means a document meeting the requirements of 21-HH,F.A.C., and must provide, at a minimum, the following information:

- (1) The location, plotted by accurate techniques, of all existing trees numbered in consecutive order.
- (2) The common and scientific name of each tree.
- (3) The DBH of each tree or, if a multiple-trunk tree, the sum DBH for all trunks.

(Ord. No. 96-045, § 2, 11-20-96)

- (4) Canopy coverage

## **Sec. 26-20. Damage to public property--Notice to development services director.**

(a) Whenever and wherever there shall be any tree or trees growing upon any street, alley or right-of-way, or easement within the town in such way and manner that the roots of such tree or trees have destroyed or damaged any sidewalk, curb, gutter, street pavement, bicycle path, water line, sewer line, drainage line or structure, or other property, or if any tree or trees shall be growing on any property abutting upon such sidewalk, curb, gutter, street pavement, bicycle path, water line, sewer line, drainage line or structure, or other property in such way and manner as to cause destruction or damage of or to such facilities, it shall be the duty of any official or employee of the town having knowledge thereof to immediately notify the development services director or designee of such damage and/or destruction to the property of the town.

(b) Upon receiving notice of such damage or destruction, and if such tree or trees shall be growing upon property of the town, the development services director or designee shall immediately cause such tree or trees to be removed or destroyed. If the tree or trees are growing in the swale area which abuts a private property, it shall be the responsibility of the private property owner to remove such tree or trees at their expense and to replace such tree or trees. The private property owner shall be responsible for the repair of any public property damaged by such tree or trees.

(Ord. No. 96-045, § 2, 11-20-96)

**Sec. 26-21. Same--Removal of trees on private property.**

(a) Upon receiving notice of damage or destruction as set forth in section 26-20 hereof, and if such tree or trees shall be growing upon private property abutting such sidewalk, curb, gutter, street pavement, bicycle path, water line, sewer line, drainage line or structure, or other property and causing the damage or destruction thereof, the development services director, or designee, upon receiving such notice, shall immediately notify the owner of such property in writing to cut down, destroy, or remove such tree or trees within ten (10) days of receipt of such notice.

(b) In the event such owner shall fail to cut down, destroy, or remove the tree or trees within ten (10) days, then the development services director or designee shall cause such tree or trees to be cut down, removed, or destroyed by the employees of the town and shall charge the cost thereof against the owner, and the amount to the town shall be a lien upon the property.

(c) In the event the tree or trees have caused damage to public property, the owner of the private property shall be responsible for the cost of the repair of same. The owner shall be invoiced for the repair cost by the town and shall make payment to the town within thirty (30) days. If, after thirty (30) days, payment is not received by the town, the town shall place a lien upon the property for such cost.

(Ord. No. 96-045, § 2, 11-20-96)

**Sec. 26-22. Tree removal permit--Required.**

(a) At the time a developer makes application for preliminary site plan approval, the developer shall submit a tree survey or tree location plan designating all trees with a caliper inch greater than 3 inches in size, for review by the Town. A person shall not cause, suffer, permit or allow the removal of any tree without first obtaining a permit from the town as herein provided. The property owner, owner of an easement and/or person removing a tree without a permit shall be responsible for the violation. The removal of trees in violation of this article is a public nuisance.

(b) Land clearing, where such activities may result in the removal of trees, shall not occur until a tree removal/tree relocation permit has been obtained.

(c) No site development shall be undertaken without first obtaining site plan approval from the town. Clearing of exotic vegetation for the purpose of preparing land for grazing shall be permitted upon approval by the development services department and, if necessary, a tree removal/tree relocation permit.

(d) Re-landscaping of existing developments which propose to remove greater than twenty (20) percent of the existing trees shall prior to the issuance of a tree

removal/relocation permit, be subject to the site plan review process of the town.  
(Ord. No. 96-045, § 2, 11-20-96)

**Sec. 26-23. Same--~~Other permits in existence~~ Other Tree Removal permits.**

(a) Any person who possesses, on the effective date of this article, a valid town tree removal permit will not be required to obtain a tree removal permit under this article.

(b) Land development activities that do not require a site plan or building permit shall obtain a tree removal permit unless another valid tree removal permit has been obtained prior to the effective date of this article.

(Ord. No. 96-045, § 2, 11-20-96)

**Sec. 26-24. Same--Exceptions.**

(a) For the purpose of the licensing requirements of this section, the following are exempt:

- (1) As previously provided for in sections 26-20 and 26-21;
- (2) Removal of tree species occurring in regulated waters, as defined by sections 27-331 to 27-339 of the Broward County Code of Ordinances, when mitigation required by that permit for the removal of the trees is equal to or greater than the replacement requirements of this article;
- (3) Nursery operations. All licensed and governmental nurseries shall be exempt from the terms and provisions of this article, but only in relation to those plants which are planted and growing for sale or intended sale to the general public in the ordinary course of business or for public purpose;
- (4) Removal of any tree that is diseased, injured or in danger of falling, to the extent that its continued existence threatens the health or safety of contiguous persons or property, provided that the owner of the property can document that such condition(s) existed prior to the removal of the tree. In the case of specimen trees, documentation must be presented to the town within forty-eight (48) hours after removal;
- (5) Under emergency conditions such as hurricanes, war, or other natural disasters of similar scope, county and town utilities, water management districts, improvement districts, county agencies, the state department of transportation, or franchised utilities, except as provided below, may remove a tree or trees in order to prevent interruption of service or to restore interrupted service; or
- (6) During emergency conditions caused by a hurricane or other disaster, the provisions of this article may be suspended by the direction of the town administrator.
- (7) Removal of any tree in owner-occupied residential properties for detached single-family or duplex usage, except for the following:
  - a. Removal or relocation of planted landscape trees prior to the issuance of a certificate of occupancy; or
  - b. Removal or relocation of any plant material required by chapter 12 article

## VI, Site Landscaping, of the Town Code.

(b) Removal of trees, except specimen trees, by franchised utilities after the town and the recorded owner of the property on which the tree or trees proposed to be removed are located received notification, delivered five (5) calendar days prior to tree removal, [is an exception to the provisions of this article]. Tree removal may proceed after the expiration of the five (5) days, providing that the utility can prove, prior to tree removal, that:

- (1) The tree or trees will cause a continual disruption of service (specimen palm trees may be removed under this exemption);
- (2) The easement or property was in actual use conveying utilities prior to the effective date of this article; and
- (3) The threat of service interruption cannot be corrected by tree pruning in accordance with the "American National Standards Institute A-300" standards or palm pruning in accordance with the standards listed in "Arboriculture Second Addition" by Richard W. Harris, as amended; or
- (4) The removal is for the purpose of providing new/additional on-site service to existing development. Under this provision, notification shall be in writing prior to the tree removal. The franchised utility shall not be required to obtain a permit, but shall comply with all the standards, requirements, and conditions of this section.

(c) Removal of trees, except specimen trees, by a water management district or improvement district in or immediately adjacent to canals and lakes operated by the district [is an exception to the provisions of this article]; providing, that the district delivers to the town and to the record owner of the property in which the trees proposed to be removed are located written notification, at least five (5) calendar days prior to the removal of the tree or trees. Tree removal may proceed after the expiration of the five (5) days, providing that the district can prove, prior to tree removal, that:

- (1) The removal complies with all the standards, requirements and conditions, other than permitting and bonding of this article;
- (2) The canal or water body was excavated in compliance with all applicable regulations or the canal or water body was excavated prior to the effective date of this article;
- (3) The canal is not or was not an agricultural canal or ditch; and
- (4) The tree or trees are causing an immediate disruption of waterflow so that the canal cannot function at its designated capacity, or that the canal was in existence, in actual use conveying water, and under a vegetation management program prior to the removal of the tree or trees as shown by a map of the district water management canal or water bodies.

(d) Removal of trees, except native and specimen trees, by the state department of transportation, the county, or the town on roads and road rights-of-way maintained by the department [is an exception to the provisions of this article]; provided, that the department delivers to the town and to the record owner of the property on which the tree or trees proposed to be removed are located written notification at least five (5) days prior to the



removal of the tree or trees. After the expiration of the five (5) days, the department may remove the tree or trees provided that:

- (1) The removal is necessary because the tree or trees are an actual and immediate traffic safety hazard to individuals using the road(s); and
- (2) The removal complies with all standards, requirement and conditions, other than licensing and bonding of this article.
- (3) The traffic safety hazard caused by the tree or trees cannot be remedied by pruning in accordance with the "American National Standards Institute A-300" standards or palm pruning in accordance with the standards listed in "Arboriculture Second Edition" by Richard W. Harris, as amended.

(Ord. No. 96-045, § 2, 11-20-96)

#### **Sec. 26-25. Same- Tree Removal Permit Application.**

(a) An owner of a fee simple title may apply for a tree removal permit after submitting verified documentation of the fee simple ownership; the agent of the owner, the leasee of the property, optionee, contract purchaser, or holder of an easement may apply for a tree removal permit. A holder of an easement may obtain a permit only when the proposed tree removal is consistent with the use granted by the easement. The town shall require that any tree survey or site plans be prepared by any person qualified to do so under the laws of the state.

(b) Application for a tree removal permit shall be made on town forms and be, at a minimum, accompanied by the following documents:

- (1) A complete, signed and notarized application form;
- (2) A map showing the size and location of the site where the permitted activities are to be conducted;
- (3) A starting date and duration of the proposed permitted activities;
- (4) A brief description of the work to be performed, including a drawing of the proposed work or a certified site plan as determined by the town, showing the location of all existing or proposed buildings, structures, and site uses;
- (5) A certified tree survey and site plan of identical scale designating those trees which are proposed to be preserved, relocated, or removed, unless not required by the town; however, in no case shall a tree survey be required when the property contains five (5) or less trees; and
- (6) The certified legal description of the site.

(c) Application filing fee.

- (1) Before any application for a permit required under this article is accepted for review, a permit application fee shall be tendered. The amount shall be established by resolution of the town council.
- (2) The permit application filing fee is not refundable and may not be applied to any permit application other than the one for which it was originally paid

- (3) For any substantial deviation from the original application, there shall be an additional fee. The amount of the fee shall be established by resolution of the town council.

(d) Application for a tree removal permit constitutes consent by the property owner or applicant for the town to conduct site inspections in furtherance of this article on the subject property.

(Ord. No. 96-045, § 2, 11-20-96)

**Sec. 26-26. Same-- Tree Removal Consideration by town; validity.**

(a) As a condition precedent to any land clearing and/or site development where any tree removal or relocation is to be conducted, except as otherwise exempted under this article, a person may submit a sworn affidavit to the town that the property the person wishes to develop does not contain trees that are protected. The town may conduct a review or site inspection.

(b) A tree may be removed only when an applicant has demonstrated to the town that the proposed development cannot be located on the site without the removal of the tree, and that there is no practical way to avoid tree removal. In determining if the applicant may remove trees pursuant to a tree removal permit, the town shall consider, at a minimum, the following:

- (1) The applicant has made every reasonable effort, consistent with the plan of development, to incorporate existing trees and to minimize the number of trees removed.
- (2) The trees proposed to be removed are the minimum number necessary; and
- (3) The trees proposed to be removed are of poor quality and appearance, are damaging existing improvements, are creating ongoing problems for existing development, or are growing in too close a proximity to other trees to permit normal growth and development of adjacent [affected] trees consistent with good forestry practice.
- (4) The applicant must relocate the trees to be removed. If relocation is not a viable solution, an applicant shall replace removed trees. If it is determined that an applicant can not relocate nor replace removed trees, the applicant shall pay the appropriate fee into the Tree Preservation Trust Fund.
- (5) Whether a tree proposed to be removed is obstructing safe vehicular cross visibility.

The applicant must relocate the trees to be removed. If relocation is not a viable solution, an applicant shall replace removed trees. If it is determined that an applicant cannot relocate or replace removed trees, the applicant shall pay the appropriate fee into the tree preservation trust fund.

(c) A determination of the extent of environmental impact by the projected development, as covered by the scope of this article, shall be performed by the town. This determination shall be based upon drawings or site plans and a completed tree removal

permit application form submitted to the town by the applicant.

(d) The applicant shall be responsible for the relocation of trees removed for utilities, roads, drainage and other services constructed to benefit the property for which the application was filed.

(e) The permittee shall only remove those trees so specified in the permit. Any damage to any other tree shall be a violation of this article.

(f) A permit shall only be valid for the development for not more than ~~two (2)~~ one (1) years from the date of issuance. A one-time extension of up to ~~two (2) years~~ six (6) months may be issued, provided there is no substantial deviation from the original application and the permit extension complies with all standards in effect at the time of the permit extension. Additional conditions may be imposed in the permit extension when there is a change in site conditions that may affect trees. Where any activity regulated by the tree removal permit has occurred, the permittee must comply with all conditions of the permit even though the permit has expired.

(Ord. No. 96-045, § 2, 11-20-96)

#### **Sec. 26-27. Tree Relocation.**

(a) Before the town issues a tree removal permit that allows the replacement of any tree, the applicant must demonstrate that relocation is not a viable alternative. Relocation shall occur either within the site or off-site with the concurrence of the town, where the site is public property, or with the concurrence of the property owner, where the site is private property. If any tree is to be located either on-site or off-site

(b) The following guidelines shall be utilized to ensure successful transplanting or trees designated for relocation:

- (1) Trees shall not be unnecessarily damaged during removal, transport or replanting of the tree.
- (2) If the tree has a dormant period, they should ~~not~~ be transplanted during that time. Trees should not be transplanted during periods of strong winds, dry winter winds or during drought.
- (3) Adequate spaces for root and crown development shall be provided.
- (4) Trees shall be root and canopy pruned in accordance with sound arboricultural standards prior to transplanting.
- (5) During and following transplanting, the root ball and trunk shall be protected. The root ball must be kept moist at all times.
- (6) Transplanted trees shall be braced for a minimum of one (1) year.
- (7) Transplanted trees shall not be fertilized at planting time, but shall be watered sufficiently until the tree growth is reestablished.
- (8) All crown pruning shall be done in accordance with "American National Standards Institute A-300" standards or palm pruning in accordance with the standards in

**Sec. 26-28. Tree Replacement.**

(a) Replacement criteria. Trees that are removed and not relocated shall be replaced so that there is, at a minimum, no loss of total caliper inches at the time of replacement. Performance bonds may be required to be posted. The following procedures shall be used to determine the tree replacement requirements:

- (1) Existing caliper inches shall be determined by measuring the tree(s) to be removed at a height of four and one-half (4 1/2) inches above grade.
- (2) Relocation of trees on-site will be counted towards equivalent replacement. Relocation of trees off-site shall be counted as half credit towards equivalent replacement. Guidelines in this article shall be followed for any trees to be relocated.
- (3) A determination of the number of trees to be replaced shall be performed. This determination shall be based upon the total caliper inches of trees to be removed divided by three (3). The caliper inches shall at least equal the caliper inches to be removed.
- (4) Shade/canopy tree(s) shall only be replaced with a shade/canopy tree(s) with a minimum DBH of three (3) inches and with an overall minimum height of sixteen (16) feet.
- (5) Palm trees shall be replaced with palm trees such that the overall height of the palm(s) to be removed shall be replaced by one (1) or more palm. Replacement palm trees shall be a minimum of fourteen (14) feet overall. Shade/canopy trees may be used to replace a palm tree based on one (1) shade/canopy tree per palm tree to be removed. Replacement shade/canopy trees shall be a minimum of three (3) inches in caliper and sixteen (16) feet in overall height.

(a) Deviations from (4) and (5) will be determined by the conditions of the site and the Town of Davie

- (6) Pine trees shall only be replaced with pine trees such that the overall height of the pine tree(s) shall be replaced by one (1) or more pines. Replacement pine trees shall be a minimum of seven (7) feet in overall height.

(b) Minimum standards for tree replacement.

- (1) All trees to be used as replacement trees shall be a minimum quality of Florida No. 1 grade or better.
- (2) Only trees listed in Appendix 1, "Replacement Tree Species" or Appendix 2, "Recommended List of Trees Under Power lines" shall be used as replacement trees (see Town of Davie Landscape Material List). The applicant shall have the option of choosing the category of trees for replacement, provided that the total caliper inches remains the same, and at least fifty (50) percent of the replacement trees are from Category 1. If Category 1 native trees are unavailable, then the Category 2 trees may be used to fulfill this requirement.

- (3) Replacement trees shall not be removed or effectively destroyed unless approval has been granted by a valid tree removal permit. The original permittee and owner of any property on which trees have been replaced or relocated shall place of [on] record a notice that shall inform subsequent purchasers, assigns and occupants of the replacement site that trees on the replacement site may not be removed without a valid tree removal permit.

(Ord. No. 96-045, § 2, 11-20-96)

**Sec. 26-29. General relocation and replacement conditions.**

(a) Any tree remaining on-site shall not be unnecessarily damaged while relocating trees, planting or preparing the site for any replacement trees.

(b) Replacement or relocated trees shall not be placed where they will interfere with existing or proposed utilities above or below ground. Acceptable trees that can be planted in the vicinity of overhead power lines are listed in Appendix 2.

(c) Where practicable, replacement tree species, installation methods and maintenance methods shall follow xeriscape principles.

(d) The permittee shall replace each tree specified in the permit within a time period of up to six (6) months with town approval. A time extension may be granted if future construction will endanger the replacement trees; however, where an extension has been granted, each tree specified in the permit must be replaced prior to approval of a certificate of occupancy or completion.

(Ord. No. 96-045, § 2, 11-20-96)

**Sec. 26-30. Maintenance and monitoring.**

(a) The permittee shall be responsible for maintaining the health of any replacement or relocated tree for one (1) year from planting.

(b) Determination of success.

(1) The permittee shall determine the condition of each tree one (1) year after the tree was relocated or planted. This determination shall be submitted to the town for approval within thirty (30) days of being made.

(2) Should any tree die or be in a state of unnatural decline within one (1) year of being planted or relocated, the permittee shall be required to replace the tree within sixty (60) days of that determination. The one-year monitoring and approval period shall begin anew whenever a tree is replaced. If that replacement tree is found not to be viable at the end of the second-year monitoring period, the permittee may pay the appropriate amount into theater preservation fund in lieu of planting a third replacement tree. If the permittee fails to replace the tree or to pay the appropriate amount into theater preservation fund within sixty (60) days, then the permittee shall be in violation of this section.

(Ord. No. 96-045, § 2, 11-20-96)

**Sec. 26-31. Payment in lieu of replacement or relocation.**

When allowed by a tree removal permit any trees which are removed and not

relocated shall be replaced in accordance with the requirements of this article. As a condition of being granted permission to remove any trees, the developer, property owner or other applicant shall be required to replace such trees, unless it is demonstrated that replacement is not a viable alternative due to a lack of available space. Where replacement cannot be accomplished, the applicant shall pay a replacement fee in lieu of actual tree replacement costs into the tree preservation trust fund. The cost of replacement trees shall be ~~based upon the property owner submitting three (3) bids from landscape nurseries that are a member of the Florida Nursery and Growers Association for the amount of trees to be replaced. The bid shall include the cost of the plant material, installation, staking and a three month guarantee period. The higher of the three (3) bids shall be used to determine the replacement value determined by the fee schedule and class of tree as listed in Section 26-43 of this ordinance.~~ (Ord. No. 96-045, § 2, 11-20-96)

#### **Sec. 26-32. Specimen trees.**

Projects containing specimen trees are subject to the following additional criteria: Specimen trees are subject to the preservation and relocation criteria of this article. If it is determined by the town that tree relocation is not feasible, then payment shall be made into the tree preservation fund. Payment shall be based on the value of the tree or trees, determined by the ~~"Valuation of Landscape Trees, Specimen Shrubs, and Other Plants" published by the International Society of Arboriculture. Guide of Plant Appraisal, 8th Edition.~~ The Town will then calculate the number of replacement trees required to equal the appraised value to the specimen tree removed. This calculation shall include the purchase price of the replacement tree plus installation cost. The cost of the evaluation shall be borne by the owner of the property. (Ord. No. 96-045, § 2, 11-20-96)

#### **Sec. 26-33. Bonds: Requirements**

(a) Bonds, as required by this article, shall be in the form of letters of credit, certificates of deposit, cash bonds, bonds issued by a insurance company legally doing business in the state, or other acceptable means agreeable to the town attorney. Letters of credit or certificates of deposit shall be drawn upon banks or savings and loans legally and actually doing business in the state. Such bonds must meet the approval of the town attorney. These bonds shall be in addition to any other bond required by any other governmental entity.

(b) Bonds shall be required for permits involving the replacement of ten (10) or more trees, or the relocation of five (5) or more trees, or for the relocation of any tree with a DBH of ten (10) inches or greater.

(c) Calculations for the amount of bonds shall be based upon the cost of the job, plus ten (10) percent. A copy of the contract for the job shall be presented to the town in order to verify the bond amount. The bond period shall be for one (1) year from the date of the permit for the relocation or replacement [of trees] and may be extended if the town feels it necessary.

(d) Release of bonds. Upon successful tree relocation or replacement, as determined by this article, and written approval by the town, bonds shall be released. Where possible, bonds shall be partially released for partially successful relocation/replacement projects, with the amount retained equal to the value of the additional replacement trees required, plus installation and maintenance, plus ten (10) percent.

(Ord. No. 96-045 § 2 11-20-96)

#### **Sec. 26-34. Protection from construction work.**

During construction, land development, or lot clearing, the contractor and the owner shall adhere to the following requirements:

- (1) Place and maintain protective barriers around the drip line of all trees to be retained on the site to prevent their destruction or damage. The protective barriers shall be conspicuous enough and high enough to be seen easily by operators of trucks and other equipment. Protective barriers shall be constructed of sturdy material, not flagging or ribbons.
- (2) Do not store or use materials or equipment within the drip line of any tree to be retained on-site.
- (3) Do not discharge or contaminate the soil within the drip line of any tree to be retained on-site with any construction materials that may cause adverse impacts.
- (4) Clearing of vegetation within the drip line of trees designated for preservation shall only be done by hand or light-rubbered wheeled equipment that will not damage tree roots.
- (5) Utilize retaining walls and dry wells where needed to protect trees to be preserved from severe grade changes.
- (6) Pruning of trees to be preserved shall be in accordance with the standards for pruning established by the "American National Standards Institute A-300" standards or standards for palm pruning as listed in "Arboriculture Second Edition" by Richard W. Harris, as amended.
- (7) Make no attachments, other than those of a protective and non damaging nature, to any tree to be retained on-site.
- (8) Do not change the natural grade above the root system within the drip line of any tree to be retained on-site unless it can be demonstrated to the town that it will not damage any tree.
- (9) Any tree designated to be preserved which is damaged during construction shall be repaired or replaced by.
  - (a) Corrective pruning for damage done to tree canopy.
  - (b) Measures such as corrective root pruning, fertilization and soil enhancements for damage to tree roots.

(Ord. No. 96-045, § 2, 11-20-96)

#### **Sec. 26-35. Tree preservation fund.**

- (a) There is hereby created the town tree preservation fund (the "fund") for the purpose of ~~accenting and dispersing the replacement fees paid to the town as part of the tree~~

removal permit and any other monies deposited with the town for tree preservation purposes. This trust shall solely be used for those items listed in subsection (e).

(b) The fund shall be continued from year-to-year unless specifically terminated by the town.

(c) All monies received hereunder shall be placed in the fund for, and inure to, the use and benefit of the town and its successors and assigns in interest.

(d) Trust administration.

(1) Fund monies shall be expended, utilized and disbursed only for the purposes designated by this section.

(2) All monies deposited hereunder shall be deposited in the fund.

(3) Monies obtained hereunder may be accepted on behalf of the town by the development services director or designee, and, upon receipt, shall be delivered to the director of finance, which shall cause the same to be deposited in the fund.

(e) Disbursal of fund monies

(1) Fund monies may be used to obtain and/or install trees, obtain and/or install shrubs or ground cover material, sprinkler systems, and any other items or materials necessary and proper for their preservation, installation or maintenance of plant material.

(2) To the extent receipts exceed disbursements, the town will reserve a portion of its general fund unreserved and undesignated fund balance for the difference. Its use shall be restricted as provided in this section.

(Ord. No. 96-045, § 2, 11-20-96)

#### **Sec. 26-36. Administrative appeals procedure.**

The requirements for administrative appeals shall be the same as those indicated in sections 12-312 and 12-313 of the Town Code.

(Ord. No. 96-045, § 2, 11-20-96)

**Secs. 26-37--26-39. Reserved.**

### **ARTICLE III. TREE ABUSE**

#### **Sec. 26-40. Definitions.**

(a) In interpreting the provisions of this article, if no definition is provided herein and the context permits, the latest editions of the following publications recognized as authoritative in the scientific field shall apply:

(1) "Tree Protection Manual for Builders and Developers" by the Florida Department of Agriculture Division of Forestry.

(2) "American National Standards Institute A-300 Standards for Tree Pruning."

(b) As used in this article the following words and terms shall be defined as set



forth herein:

*Destruction of the natural habit of growth* means pruning that causes irreparable damage and permanent disfigurement to a tree such that, even with regrowth, the tree will never regain the original characteristics of its species, and is a danger to the public or property; or pruning defined herein as tree abuse that results in the tree's death.

*Enforcement agency* means the development services department of the town is designated to enforce this article.

*Hatrack* means to flat-cut the top or sides of a tree, to sever the leader or leaders, or ~~to prune a tree by stubbing off mature wood larger than three (3) inches in diameter; or~~ reducing the total circumference or canopy spread not in conformance with the "American National Standards Institute A-300" standards, a copy of which is on file with the development services department. Notwithstanding this definition, "hatracking" will not include necessary tree-cutting by authorized utilities providers around power lines or utility lines to prevent disruption of utility service or for safety reasons.

*Nuisance species* means tree species set forth under section 26-41.

*Prune* means to cut away, remove, cut off or cut back parts of a tree.

*Topiary* means the practice of pruning a tree not an ornamental shape by the removal of branches no larger than one (1) inch in diameter.

*Tree.* See definition of "tree" in section 26-19.

*Tree abuse means:*

- (1) To hatrack a tree;
- (2) Pruning that reduces the height or spread of a tree that has not attained a height or spread of thirty (30) feet;
- (3) Cutting upon a tree which destroys its natural habit of growth;
- (4) Pruning that leaves stubs or results in a flush cut, or splitting of limb ends;
- (5) Peeling or stripping of bark, or the removal of bark to the extent that, if a line is drawn at any height around the circumference of the tree, over one-third (1/3) of the length of the line falls on portions of the tree where bark no longer remains;
- (6) The use of climbing spikes, nails or hooks, except for the purpose of total tree removal or as specifically permitted by National Arborist Association standards; or
- (7) Pruning that does not conform to "American National Standards Institute A-300" standards. The removal of diseased or dead portions of a tree; the removal of interfering, obstructing, or weak branches; the removal of interior branches in order to decrease wind resistance; or the complete removal of a tree pursuant to a valid tree removal permit shall not constitute tree abuse under this article.

(8) Pruning of live palm fronds which initiate above the horizontal plane as defined by the American National Standards Institute (ANSI A-300)

*Violator* means a person who abuses a tree or otherwise violates this article. The owner of the property upon which the abused tree is located shall also be deemed a violator if the tree abuse is undertaken by the owner's employee, agent or person under the owner's control.  
(Ord. No. 96-045, § 2, 11-20-96)

**Sec. 26-41. Arborists.**

Vehicles used by arborists operating within the town shall be clearly marked with the name of the arborist. The arborist shall display the certified logo and registration number, if any. A photocopy of the occupational license shall be available for inspection at each job site.  
(Ord. No. 96-045, § 2, 11-20-96)

**Sec. 26-42. ~~Prohibited~~ Prohibition of tree abuse; exceptions; administrative appeal.**

(a) No person shall abuse a tree located within the town unless one (1) of the following exceptions applies:

- (1) The tree is one (1) of the following species and the abuse does not result in a tree that threatens public safety or adjacent property:
  - a. *Schinus terebinthifolius* (Brazilian Pepper).
  - b. *Metpoium toxiferum* (Poison Wood).
  - c. *Melaleuca quinquenervia* (Punk, Cajeput).
  - d. *Casuarina glauca*, *equisetifolia* and *cunninghamiana* (Australian Pines).
  - e. *Brassaia actinophylla* (Schefflera).
  - f. Citrus species.
  - g. *Persea americana* (Avocado).
  - h. *Araucaria excelsa* (Norfolk Island Pine).
  - i. ~~Ficus species, except *F. aurea* (Strangler Fig), *F. laevigata* (Short Leaf Fig), *F. rubiginosa* (Rusty Fig or Rusty Leaf Fig), *F. jacquinifolia*.~~
  - j. ~~All Category I invasive exotic plants.~~
- (2) The abuse is necessary to alleviate a dangerous condition posing an imminent threat to the public or property.
- (3) County, town, or franchised utilities, water management districts, and their authorized agents, may prune trees in a manner that may be defined herein as tree abuse, provided such pruning is necessary to prevent service interruptions or to prevent interference with the operation of water control structures

- (4) Topiary pruning shall only be allowed for trees located on owner-occupied property developed for detached single-family or duplex usage, or for those trees that were not installed to meet the minimum landscaping requirements and are identified on an approved landscape plan as appropriate for topiary pruning, and are located outside of rights-of-way or roadway easements.

(b) Any person may apply for an administrative appeal of a decision for this article.  
(Ord. No. 96-045, § 2, 11-20-96)

#### **Sec. 26-43. Remedial actions required for violations.**

(a) In the event a person abuses a tree in violation of this article, the violator shall be responsible to undertake pruning and other remedial actions that the enforcement agency determines are reasonably necessary to protect public safety and property, and to help the tree survive the tree abuse damage if the tree is not a nuisance species.

(b) If the natural habit of growth of the tree is destroyed, the violator shall install a replacement tree(s). Such abused tree shall be removed if it threatens public safety or property.

~~(c) Each replacement tree shall be a species found in Appendix 1 or Appendix 2 of the Town of Davie Landscape Material List. Replacement trees shall be Florida No. 1 quality or better. The diameter of the replacement [tree] shall be equal to or greater than the diameter of the abused tree. More than one (1) tree may be utilized for replacement if the aggregate sum of the diameters of the replacement trees is equal to or greater than the abused tree. No replacement tree shall have a diameter of less than three (3) inches and a minimum overall height of sixteen (16) feet.~~

In the event a person removes a tree(s) from a site without first obtaining a tree removal permit, the violator shall be responsible for the replacement of the removed trees.

~~(c)(d)~~ Each replacement tree shall be a species found in Appendix 1 or Appendix 2 of the Town of Davie Landscape Material List. Replacement trees shall be Florida No. 1 quality or better. The diameter of the replacement [tree] shall be equal to or greater than the diameter of the abused tree. More than one (1) tree may be utilized for replacement if the aggregate sum of the diameters of the replacement trees is equal to or greater than the abused tree. No replacement tree shall have a diameter of less than three (3) inches and a minimum overall height of sixteen (16) feet.

~~(d)(e)~~ Replacement trees shall be installed on-site. In the event the site cannot accommodate all required replacement trees, the remaining replacement trees shall be installed on public lands if approved by the town and the applicable jurisdiction that owns the lands. If no suitable public land is located, the violator shall pay into the tree preservation fund. The violator shall ~~secure three (3) proposals from nurseries that are members of the Florida Nursery and Growers Association for the cost and installation of replacement trees. The higher of the three (3) proposals shall determine the fees to be placed in the tree preservation fund.~~ be responsible for the value of the tree(s) as determined in the fee schedule based on the value of "Class A, B, or C" tree as listed below. All "specimen" trees will be valued according to the *Guide for Plant Appraisal, 8th edition as stated in Section 26-32 of this ordinance.*

~~(e)~~(f) Remedial actions and replacement required under this section shall be completed within sixty (60) days of the notice from the town that such action is required. The town may require the violator to take immediate remedial actions in the event the abused tree is an immediate threat to the public or property.

~~(f)~~(g) No tree removal permit shall be required to remove a tree as required by the town under this article.

(Ord. No. 96-045, § 2, 11-20-96)

**Sec. 26-44. Fees and Values**

**(a) Application fees**

- |     |   |          |
|-----|---|----------|
| (1) | Tree removal:                             |          |
|     | Minimum fee, up to 4 trees                | \$100.00 |
|     | Additional fee per trees over 4 trees     | \$ 25.00 |
| (2) | Tree Relocation:                          |          |
|     | Minimum fee, up to 4 trees                | \$ 60.00 |
|     | Additional fee per trees over 4 trees     | \$ 15.00 |
| (3) | Tree Service/Arborist Registration-Annual | \$ 30.00 |

**(b) Equivalent Replacement Value - Dicot and Conifer:**

- |     |   |          |
|-----|---|----------|
|     | Class A - per caliper inch to 8 inches      | \$ 90.00 |
|     | Per caliper inch from 9 inches to 17 inches | \$135.00 |
| (2) | Class B - per caliper inch to 8 inches      | \$ 65.00 |
|     | Per caliper inch from 9 inches to 17 inches | \$ 97.00 |
| (3) | Class C - per caliper inch to 8 inches      | \$ 50.00 |
|     | Per caliper inch from 9 inches to 17 inches | \$ 75.00 |

**(c) Equivalent Replacement Value - Monocot:**

- |     |  |          |
|-----|--|----------|
| (1) | Class A - per trunk foot   | \$100.00 |
|     | Per trunk foot for historically or environmentally significant trees | \$200.00 |
| (2) | Class B - per trunk foot   | \$ 25.00 |
|     | Per trunk foot for historically or environmentally significant trees | \$ 50.00 |
| (3) | Class C - per trunk foot   | \$ 20.00 |
|     | Per trunk foot for historically or environmentally significant trees | \$ 40.00 |

## Table of Valuation

### (a) Dicot and Conifer Trees:

<u>Class</u>	<u>Botanical Name</u>	<u>Common Name</u>
C	Acacia auriculaeformis	Earleaf Acacia
B	Acacia farnesiana	Sweet Acacia
A	Acer rubum	Red Maple
B	Albizia julibrissin	Mimosa
C	Albizia lebbek	Woman's Tongue
A	Annona glabera	Pond Apple
C	Araucaria excelsa	Norfolk Pine
A	Bauhinia spp.	Orchid Tree
C	Bischofia javonica	Bischofia
C	Brassaia actinophylla	Schefflera
B	Bucida buceras	Black Olive
A	Bursera simarouba	Gumbo Limbo
B	Callistemon spp.	Bottle Brush
B	Calophyllum spp.	Calophyllum
B	Cassia fistula	Golden Shower
A	Chrysobalanus icaco Cocoplum	Cocoplum
B	Chrysophyllum oliviforme	Satin leaf
C	Citrus spp.	Citrus
B	Clussia rosea	Pitch Apple
A	Coccoloba diversifolia	Pigeon Plum
A	Coccoloba uvifera	Sea Grape
B	Conocarpus erecta	Green Buttonwood
A	Conocarpus sericeus	Silver Buttonwood
A	Cordia sebestena	Geiger Tree
C	Cupaniopsis anacardiodes	Carrotwood
C	Cupressus sempervirens	Italian Cypress
B	Dalbergia sissoo	Indian Rosewood

<u>Class</u>	<u>Botanical Name</u>	<u>Common Name</u>
A	Delonix regia	Royal Poinciana
B	Enterlobium cyclocarpum	Ear Tree
B	Eriobatrya japonica	Loquat Plum
C	Eucalyptus torelliana	Eucalyptus
B	Eugenia spp.	Stopper
C	Ficus aurea	Strangler Fig
C	Ficus benamina	Benamina Fig
C	Ficus Elastica	Rubber Tree
C	Ficus nitida	Cuban Laurel Fig
B	Ficus rubiginosa	Rustyleaf Fig
C	Grevillea robusta	Silk Oak
B	Guaiaacum sanctum	Lignum - Vitae
C	Hibiscus spp.	Hibiscus Standard
B	Hibiscus tiliacus	Tree Hibiscus
B	Ilex cassine	Dahoon Holly
A	Ilex parvifolia	Japanese Holly

B	Juniperus silicicola
C	Kigelia pinata
B	Koelreuteria formosana
B	Lagerstroemia indica
B	Lagerstroemia speciosa
A	Ligustrum spp.
B	Litchi chinensis
A	Lysiloma spp.
C	Mangifera indica
C	Manilkara zapota
B	Myrica cerifera
C	Nerium oleander
B	Noronhia emarginata
C	Parkinsonia aculeata
A	Peltophorum pterocarpum
C	Persea americana
A	Persea borbonia
A	Pimenta dioica
A	Pinus elliottii var. densa
B	Piscidia piscipula
C	Pithecellobium dulce
B	Platanus occidentalis
B	Plumeria rubra
B	Podocarpus spp.
A	Pongamia pinnata
B	Prunus caroliniana
B	Psidium littorale
A	Quercus laurifolia
A	Quercus nigra
A	Quercus virginiana
B	Sapindus saponaria

Red Cedar
Sausage Tree
Golden Raintree
Crepe Myrtle
Queens Crepe Myrtle
Ligustrum
Lychee
Wild Tamrind
Mango
Sapodilla
Wax Myrtle
Oleander Standard
Madagascar Olive
Jerusalem Thorn
Yellow Poinciana
Avacado
Red Bay
All Spice
South Fl. Slash Pine
Jamaican Dogwood
Cat's Claw
American Sycamore
Frangipani
Podocarpus
Pongam
Cherry Laurel
Cattley Guava
Laurel Oak
Water Oak
Live Oak
Soapberry

**Class**

**Botanical Name**

**Common Name**

B	Simarouba glauca
B	Stenolobium stans
A	Swietenia mahagoni
C	Syzygium cumini
C	Syzygium jambos
A	Tabebuia argentea
B	Tabebuia pallida
A	Tamarindus indica
A	Taxodium distichum
C	Terminalia cattapa
B	Thespesia populnea
C	Thuja orientalis
A	Ulmus parvifolia

Paradise Tree
Yellow Elder
Mahogany
Jambolan Plum
Rose Apple
Yellow Tabebuia
Pink Tabebuia
India Tamrind
Bald Cypress
Tropical Almond
Seaside Mahoe
Arbor- Vitae
Florida Elm

**(b) Monocot Trees:**

<u>Class</u>	<u>Botanical Name</u>	<u>Common Name</u>
B	Acoelorrhaphe wrightii	Paurotis Palm
A	Arecastrum romanzoffianum	Queen Palm
B	Butia Capitata	Pindo Palm
C	Chrysalidocarpus lutescens	Areca Palm
A	Cocos Nucifera	Coconut Palm
C	Cycas circinalis	Queen Sago Palm
B	Livistona chinensis	Chinese Fan Palm
B	Neodypsis decaryi	Triangle Palm
A	Phoenix canariensis	Canary Is. Date Palm
A	Phoenix dactylifera	Madjool Date Palm
A	Phoenix reclinata	Senegal Date Palm
C	Phoenix roebellini	Pygmy Date Palm
B	Ptychosperma elegans	Solitaire Palm
B	Ptychosperma macarthurii	MacArthur Palm
A	Ravenea rivularis	Majesty Palm
A	Roystonea elata	Royal Palm
B	Sabal palmetto	Cabbage Palm
B	Thrinax floridana	Thatch Palm
B	Veitchia merrillii	Christmas Palm
B	Washingtonia robusta	Washingtonia Palm

**SECTION 3.** All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

**SECTION 4.** If any section, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

**SECTION 5.** This Ordinance shall take effect immediately upon passage and adoption.

PASSED ON FIRST READING THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 1999.

PASSED ON SECOND READING THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 1999.

-----  
MAYOR/COUNCIL MEMBER

Attest:

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TOWN CLERK